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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/938,700	08/24/2001	Mohamad A. Morsey	PC10761A	1776

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Paul H. Ginsburg
Pfizer Inc.
20th Floor
235 East 42nd Street
New York, NY 10017-5755

EXAMINER	
JAMROZ, MARGARET E	
ART UNIT	PAPER NUMBER
1644	9

DATE MAILED: 04/05/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/938,700	MORSEY ET AL.	
	Examiner	Art Unit	
	Margaret E Jamroz	1644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 August 2001* .

2a)☐ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-41* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *1-41* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☒ Other: *restriction election facsimile* .

DETAILED ACTION

1. The location of your application in the PTO has changed. To aid in correlating papers for this application, all further correspondence regarding this application should be directed to Megan Jamroz in Art Unit 1644, Technology Center 1600.

Restriction Requirement

2. Please Note: In an effort to enhance communication with our customers and reduce processing time, Group 1640 is running a Fax Response Pilot for Written Restriction Requirements. A dedicated Fax machine is in place to receive your responses. The Fax number is 703-308-4315. A Fax cover sheet is attached to this Office Action for your convenience. We encourage your participation in this Pilot program. If you have any questions or suggestions please contact Paula Hutzell, Ph.D., Supervisory Patent Examiner at Paula.Hutzell@uspto.gov or 703-308-4310. Thank you in advance for allowing us to enhance our customer service. Please limit the use of this dedicated Fax number to responses to Written Restrictions.

In view of the delays in the mail at the present time, the office strongly encourages faxing responses.

3. Restriction to one of the following inventions is required under 35 U.S.C. § 121:

1. Claims 1-2, 7-13, and 39-41, drawn to an isolated antigen peptide comprising SEQ ID NO: 1, a fusion protein thereof, a pharmaceutical composition thereof, and a kit; classified in Class 530, subclass 324, Class 424, subclasses 134.1, 185.1, and 192.1, and Class 435, subclass 810, respectively.

2. Claims 1-2, 7-13, and 39-41, drawn to an isolated antigen peptide comprising SEQ ID NO: 2, a fusion protein thereof, a pharmaceutical composition thereof, and a kit; classified in Class 530, subclass 324, Class 424, subclasses 134.1, 185.1, and 192.1, and Class 435, subclass 810, respectively.

3. Claims 1-2, 7-13, and 39-41, drawn to an isolated antigen peptide comprising SEQ ID NO: 3, a fusion protein thereof, a pharmaceutical composition thereof, and a kit; classified in Class 530, subclass 324, Class 424, subclasses 134.1, 185.1, and 192.1, and Class 435, subclass 810, respectively.

4. Claims 1-2, 7-13, and 39-41, drawn to an isolated antigen peptide comprising SEQ ID NO: 4, a fusion protein thereof, a pharmaceutical composition thereof, and a kit; classified in Class 530, subclass 324, Class 424, subclasses 134.1, 185.1, and 192.1, and Class 435, subclass 810, respectively.

5. Claims 1-2, 7-13, and 39-41, drawn to an isolated antigen peptide comprising SEQ ID NO: 5, a fusion protein thereof, a pharmaceutical composition thereof, and a kit; classified in Class 530, subclass 324, Class 424, subclasses 134.1, 185.1, and 192.1, Class 435, subclass 810, respectively.

6. Claims 1-2, 7-13, and 39-41, drawn to an isolated antigen peptide comprising SEQ ID NO: 6, a fusion protein thereof, a pharmaceutical composition thereof, and a kit; classified in Class 530, subclass 324, Class 424, subclasses 134.1, 185.1, and 192.1, Class 435, subclass 810, respectively.

7. Claims 1-2, 7-13, and 39-41, drawn to an isolated antigen peptide comprising SEQ ID NO: 7, a fusion protein thereof, a pharmaceutical composition thereof, and a kit; classified in Class 530, subclass 324, Class 424, subclasses 134.1, 185.1, and 192.1, and Class 435, subclass 810, respectively.

8. Claims 1-2, 7-13, and 39-41, drawn to an isolated antigen peptide comprising SEQ ID NO: 8, a fusion protein thereof, a pharmaceutical composition thereof, and a kit; classified in Class 530, subclass 324, Class 424, subclasses 134.1, 185.1, and 192.1, and Class 435, subclass 810, respectively.

9. Claims 1-2, 7-13, and 39-41, drawn to an isolated antigen peptide comprising SEQ ID NO: 9, a fusion protein thereof, a pharmaceutical composition thereof, and a kit; classified in Class 530, subclass 324, Class 424, subclasses 134.1, 185.1, and 192.1, and Class 435, subclass 810, respectively.

10. Claims 1-2, 7-13, and 39-41, drawn to an isolated antigen peptide comprising SEQ ID NO: 10, a fusion protein thereof, a pharmaceutical composition thereof, and a kit; classified in Class 530, subclass 324, Class 424, subclasses 134.1, 185.1, and 192.1, and Class 435, subclass 810, respectively.

11. Claims 1-2, 7-13, and 39-41, drawn to an isolated antigen peptide comprising SEQ ID NO: 11, a fusion protein thereof, a pharmaceutical composition thereof, and a kit; classified in Class 530, subclass 324, Class 424, subclasses 134.1, 185.1, and 192.1, and Class 435, subclass 810, respectively.

12. Claims 1-2, 7-13, and 39-41, drawn to an isolated antigen peptide comprising SEQ ID NO: 12, a fusion protein thereof, a pharmaceutical composition thereof, and a kit; classified in Class 530, subclass 324, Class 424, subclasses 134.1, 185.1, and 192.1, and Class 435, subclass 810, respectively.

13. Claims 1-2, 7-13, and 39-41, drawn to an isolated antigen peptide comprising SEQ ID NO: 13, a fusion protein thereof, a pharmaceutical composition thereof, and a kit; classified in Class 530, subclass 324, Class 424, subclasses 134.1, 185.1, and 192.1, and Class 435, subclass 810, respectively.

14. Claims 1-2, 7-13, and 39-41, drawn to an isolated antigen peptide comprising SEQ ID NO: 14, a fusion protein thereof, a pharmaceutical composition thereof, and a kit; classified in Class 530, subclass 324, Class 424, subclasses 134.1, 185.1, and 192.1, and Class 435, subclass 810, respectively.

15. Claims 3-6, 14-18, 30-31, and 41, drawn to an isolated polynucleotide sequence comprising SEQ ID NO: 15 encoding an antigenic peptide or fusion protein thereof, a pharmaceutical composition thereof, and a kit; classified in Class 536, subclass 23.1, and Class 514, subclass 44, respectively.

16. Claims 3-6, 14-18, 30-31, and 41, drawn to an isolated polynucleotide sequence comprising SEQ ID NO: 16 encoding an antigenic peptide or fusion protein thereof, a pharmaceutical composition thereof, and a kit; classified in Class 536, subclass 23.1, and Class 514, subclass 44, respectively.

17. Claims 3-6, 14-18, 30-31, and 41, drawn to an isolated polynucleotide sequence comprising SEQ ID NO: 17 encoding an antigenic peptide or fusion protein thereof, a pharmaceutical composition thereof, and a kit; classified in Class 536, subclass 23.1, and Class 514, subclass 44, respectively.

18. Claims 3-6, 14-18, 30-31, and 41, drawn to an isolated polynucleotide sequence comprising SEQ ID NO: 18 encoding an antigenic peptide or fusion protein thereof, a pharmaceutical composition thereof, and a kit; classified in Class 536, subclass 23.1, and Class 514, subclass 44, respectively.

19. Claims 3-6, 14-18, 30-31, and 41, drawn to an isolated polynucleotide sequence comprising SEQ ID NO: 19 encoding an antigenic peptide or fusion protein thereof, a pharmaceutical composition thereof, and a kit; classified in Class 536, subclass 23.1, and Class 514, subclass 44, respectively.

20. Claims 3-6, 14-18, 30-31, and 41, drawn to an isolated polynucleotide sequence comprising SEQ ID NO: 20 encoding an antigenic peptide or fusion protein thereof, a pharmaceutical composition thereof, and a kit; classified in Class 536, subclass 23.1, and Class 514, subclass 44, respectively.

21. Claims 3-6, 14-18, 30-31, and 41, drawn to an isolated polynucleotide sequence comprising SEQ ID NO: 21 encoding an antigenic peptide or fusion protein thereof, a pharmaceutical composition thereof, and a kit; classified in Class 536, subclass 23.1, and Class 514, subclass 44, respectively.

22. Claims 3-6, 14-18, 30-31, and 41, drawn to an isolated polynucleotide sequence comprising SEQ ID NO: 22 encoding an antigenic peptide or fusion protein thereof, a pharmaceutical composition thereof, and a kit; classified in Class 536, subclass 23.1, and Class 514, subclass 44, respectively.

23. Claims 3-6, 14-18, 30-31, and 41, drawn to an isolated polynucleotide sequence comprising SEQ ID NO: 23 encoding an antigenic peptide or fusion protein thereof, a pharmaceutical composition thereof, and a kit; classified in Class 536, subclass 23.1, and Class 514, subclass 44, respectively.

24. Claims 3-6, 14-18, 30-31, and 41, drawn to an isolated polynucleotide sequence comprising SEQ ID NO: 24 encoding an antigenic peptide or fusion protein thereof, a pharmaceutical composition thereof, and a kit; classified in Class 536, subclass 23.1, and Class 514, subclass 44, respectively.

25. Claims 3-6, 14-18, 30-31, and 41, drawn to an isolated polynucleotide sequence comprising SEQ ID NO: 25 encoding an antigenic peptide or fusion protein thereof, a pharmaceutical composition thereof, and a kit; classified in Class 536, subclass 23.1, and Class 514, subclass 44, respectively.

26. Claims 3-6, 14-18, 30-31, and 41, drawn to an isolated polynucleotide sequence comprising SEQ ID NO: 26 encoding an antigenic peptide or fusion protein thereof, a pharmaceutical composition thereof, and a kit; classified in Class 536, subclass 23.1, and Class 514, subclass 44, respectively.

27. Claims 3-6, 14-18, 30-31, and 41, drawn to an isolated polynucleotide sequence comprising SEQ ID NO: 27 encoding an antigenic peptide or fusion protein thereof, a pharmaceutical composition thereof, and a kit; classified in Class 536, subclass 23.1, and Class 514, subclass 44, respectively.

28. Claims 3-6, 14-18, 30-31, and 41, drawn to an isolated polynucleotide sequence comprising SEQ ID NO: 28 encoding an antigenic peptide or fusion protein thereof, a pharmaceutical composition thereof, and a kit; classified in Class 536, subclass 23.1, and Class 514, subclass 44, respectively.

29. Claims 19-22 and 29, drawn to a method of treating or preventing an IgE mediated allergic disorder comprising administering an antigenic peptide, or a fusion protein of SEQ ID NO: 1; classified in Class 424, subclasses 134.1, 185.1, and 192.1.

30. Claims 19-22 and 29, drawn to a method of treating or preventing an IgE mediated allergic disorder comprising administering an antigenic peptide, or a fusion protein of SEQ ID NO: 2; classified in Class 424, subclasses 134.1, 185.1, and 192.1.

31. Claims 19-22 and 29, drawn to a method of treating or preventing an IgE mediated allergic disorder comprising administering an antigenic peptide, or a fusion protein of SEQ ID NO: 3; classified in Class 424, subclasses 134.1, 185.1, and 192.1.

32. Claims 19-22 and 29, drawn to a method of treating or preventing an IgE mediated allergic disorder comprising administering an antigenic peptide, or a fusion protein of SEQ ID NO: 4; classified in Class 424, subclasses 134.1, 185.1, and 192.1.

33. Claims 19-22 and 29, drawn to a method of treating or preventing an IgE mediated allergic disorder comprising administering an antigenic peptide, or a fusion protein of SEQ ID NO: 5; classified in Class 424, subclasses 134.1, 185.1, and 192.1.

34. Claims 19-22 and 29, drawn to a method of treating or preventing an IgE mediated allergic disorder comprising administering an antigenic peptide, or a fusion protein of SEQ ID NO: 6; classified in Class 424, subclasses 134.1, 185.1, and 192.1.

35. Claims 19-22 and 29, drawn to a method of treating or preventing an IgE mediated allergic disorder comprising administering an antigenic peptide, or a fusion protein of SEQ ID NO: 7; classified in Class 424, subclasses 134.1, 185.1, and 192.1.

36. Claims 19-22 and 29, drawn to a method of treating or preventing an IgE mediated allergic disorder comprising administering an antigenic peptide, or a fusion protein of SEQ ID NO: 8; classified in Class 424, subclasses 134.1, 185.1, and 192.1.

37. Claims 19-22 and 29, drawn to a method of treating or preventing an IgE mediated allergic disorder comprising administering an antigenic peptide, or a fusion protein of SEQ ID NO: 9; classified in Class 424, subclasses 134.1, 185.1, and 192.1.

38. Claims 19-22 and 29, drawn to a method of treating or preventing an IgE mediated allergic disorder comprising administering an antigenic peptide, or a fusion protein of SEQ ID NO: 10; classified in Class 424, subclasses 134.1, 185.1, and 192.1.

39. Claims 19-22 and 29, drawn to a method of treating or preventing an IgE mediated allergic disorder comprising administering an antigenic peptide, or a fusion protein of SEQ ID NO: 11; classified in Class 424, subclasses 134.1, 185.1, and 192.1.

40. Claims 19-22 and 29, drawn to a method of treating or preventing an IgE mediated allergic disorder comprising administering an antigenic peptide, or a fusion protein of SEQ ID NO: 12; classified in Class 424, subclasses 134.1, 185.1, and 192.1.

41. Claims 19-22 and 29, drawn to a method of treating or preventing an IgE mediated allergic disorder comprising administering an antigenic peptide, or a fusion protein of SEQ ID NO: 13; classified in Class 424, subclasses 134.1, 185.1, and 192.1.

42. Claims 19-22 and 29, drawn to a method of treating or preventing an IgE mediated allergic disorder comprising administering an antigenic peptide, or a fusion protein of SEQ ID NO: 14; classified in Class 424, subclasses 134.1, 185.1, and 192.1.

43. Claims 23-29, drawn to a method of treating or preventing an IgE mediated allergic disorder comprising administering a nucleic acid comprising SEQ ID NO: 15 encoding an antigenic peptide, or a fusion protein; classified in Class 514, subclass 44.

44. Claims 23-29, drawn to a method of treating or preventing an IgE mediated allergic disorder comprising administering a nucleic acid comprising SEQ ID NO: 16 encoding an antigenic peptide, or a fusion protein; classified in Class 514, subclass 44.

45. Claims 23-29, drawn to a method of treating or preventing an IgE mediated allergic disorder comprising administering a nucleic acid comprising SEQ ID NO: 17 encoding an antigenic peptide, or a fusion protein; classified in Class 514, subclass 44.

46. Claims 23-29, drawn to a method of treating or preventing an IgE mediated allergic disorder comprising administering a nucleic acid comprising SEQ ID NO: 18 encoding an antigenic peptide, or a fusion protein; classified in Class 514, subclass 44.

47. Claims 23-29, drawn to a method of treating or preventing an IgE mediated allergic disorder comprising administering a nucleic acid comprising SEQ ID NO: 19 encoding an antigenic peptide, or a fusion protein; classified in Class 514, subclass 44.

48. Claims 23-29, drawn to a method of treating or preventing an IgE mediated allergic disorder comprising administering a nucleic acid comprising SEQ ID NO: 20 encoding an antigenic peptide, or a fusion protein; classified in Class 514, subclass 44.

49. Claims 23-29, drawn to a method of treating or preventing an IgE mediated allergic disorder comprising administering a nucleic acid comprising SEQ ID NO: 21 encoding an antigenic peptide, or a fusion protein; classified in Class 514, subclass 44.

50. Claims 23-29, drawn to a method of treating or preventing an IgE mediated allergic disorder comprising administering a nucleic acid comprising SEQ ID NO: 22 encoding an antigenic peptide, or a fusion protein; classified in Class 514, subclass 44.

51. Claims 23-29, drawn to a method of treating or preventing an IgE mediated allergic disorder comprising administering a nucleic acid comprising SEQ ID NO: 23 encoding an antigenic peptide, or a fusion protein; classified in Class 514, subclass 44.

52. Claims 23-29, drawn to a method of treating or preventing an IgE mediated allergic disorder comprising administering a nucleic acid comprising SEQ ID NO: 24 encoding an antigenic peptide, or a fusion protein; classified in Class 514, subclass 44.

53. Claims 23-29, drawn to a method of treating or preventing an IgE mediated allergic disorder comprising administering a nucleic acid comprising SEQ ID NO: 25 encoding an antigenic peptide, or a fusion protein; classified in Class 514, subclass 44.

54. Claims 23-29, drawn to a method of treating or preventing an IgE mediated allergic disorder comprising administering a nucleic acid comprising SEQ ID NO: 26 encoding an antigenic peptide, or a fusion protein; classified in Class 514, subclass 44.

55. Claims 23-29, drawn to a method of treating or preventing an IgE mediated allergic disorder comprising administering a nucleic acid comprising SEQ ID NO: 27 encoding an antigenic peptide, or a fusion protein; classified in Class 514, subclass 44.

56. Claims 23-29, drawn to a method of treating or preventing an IgE mediated allergic disorder comprising administering a nucleic acid comprising SEQ ID NO: 28 encoding an antigenic peptide, or a fusion protein; classified in Class 514, subclass 44.

57. Claims 32 and 34-38, drawn to a method of evaluating the effect of anti-IgE vaccines in dogs comprising administering to the dogs an allergen to induce hypersensitivity followed by challenge with allergen; classified in class 424, subclass 275.1.

58. Claims 33-38, drawn to a method of inducing high levels of IgE and clinical signs of hypersensitivity in dogs comprising administering to the dogs an allergen and ricin to induce hypersensitivity followed by challenge with allergen; classified in class 424, subclass 275.1.

4. Groups 1-28 are different products. Dominant-negative Smad2 and dominant-negative Smad4 differ with respect to their structures and physicochemical properties; therefore each product is patentably distinct.

Claims 1-2, 8-10, 20, 22, and 39-40 recite antigenic peptides with SEQ ID NOS: 1-14. The peptides disclosed in SEQ ID NOS: 1-14 differ with respect to their structures.

Claims 30-31 recite SEQ ID NOS: 15-28 which differ with respect to their structures.

5. Groups 29-58 are different methods. The inventions as grouped in Groups 29-58 are distinct, each from the other, because they represent different inventive endeavors as one does not suggest the other; therefore, each method is patentably distinct.

6. (Groups 1-14 and 29-42, respectively) and (Groups 15-28 and 43-56, respectively) are related as product and process of using. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)).

In the instant case the products of groups 1-14 can be used in a materially different process, such as an ELISA assay, in addition to the methods of treating and preventing recited.

In the instant case the products of groups 15-28 can be used in a materially different process, such as recombinant generation of the peptide *in vitro*, in addition to the methods of treating and preventing recited.

7. These inventions are distinct for the reasons given above. In addition, they have acquired a separate status in the art as shown by different classification and/or recognized divergent subject matter. Further, even though in some cases the classification is shared, a different field of search would be required based upon the structurally distinct products recited and the various methods of use comprising distinct method

steps. Moreover, a prior art search also requires a literature search, which would not be completely co-extensive. It is an undue burden for the examiner to search more than one invention. Therefore restriction for examination purposes as indicated is proper.

Species Election

8. Applicant is further required under 35 USC 121 (1) to elect a single disclosed species to which the claims would be restricted if no generic claim is finally held to be allowable and (2) to list all claims readable thereon including those subsequently added.

If Groups 1-14 are elected, applicant is required to elect an antigenic peptide pharmaceutical composition with a specific heterologous carrier protein (e.g. KLH or PhoE or rmLT, etc.).

These species are distinct because the pharmaceutical methods differ with respect to the structure of the specific heterologous carrier; thus each specific composition employing a specific heterologous carrier represents patentably distinct subject matter. Currently, claim 11 is generic.

If Groups 15-28 are elected, applicant is required to elect a nucleic acid pharmaceutical composition with a specific heterologous carrier protein (e.g. KLH or PhoE or rmLT, etc.).

These species are distinct because the pharmaceutical methods differ with respect to the structure of the specific heterologous carrier; thus each specific composition employing a specific heterologous carrier represents patentably distinct subject matter. Currently, claim 18 is generic.

If Groups 29-56 are elected, applicant is required to a method of treating or preventing a specific IgE-mediated allergic disorder (e.g. asthma or food allergies or glomerular nephritis, etc.).

These species are distinct because the methods of treating or preventing a specific IgE-mediated allergic disorder differ with respect to the etiology of the disorder and the patient population to be treated; thus each

method comprising treating a specific IgE-mediated allergic disorder represents patentably distinct subject matter. Currently, claim 29 is generic.

If Groups 57 or 58 are elected, applicant is required to elect a method comprising administering a specific allergen (i.e. a flea allergen or a food allergen or an ascaris allergen).

These species are distinct because the methods differ with respect to the structure of the specific allergen; thus each method employing a specific allergen represents patentably distinct subject matter. Currently, claims 32 and 33 are generic.

9. Applicant is advised that a response to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 C.F.R. § 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. M.P.E.P. § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. § 103 of the other invention.

10. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

11. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Megan Jamroz whose telephone number is (703) 308-8365. The examiner can normally be reached Monday through Friday from 8:00 AM to 4:30 PM. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (703) 308-3973. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 1600 receptionist whose telephone number is (703) 308-0196.

Papers related to this application may be submitted to Technology Center 1600 by facsimile transmission. Papers should be faxed to Technology Center 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center telephone number is (703) 305-3014.

Margaret (Megan) Jamroz, Ph.D.
Patent Examiner
Technology Center 1600
April 3, 2002

PHILLIP GAMBEL, PH.D
PRIMARY EXAMINER
TECH CENTER 1600
4/4/02